CHAPTER 6

ACQUISITION PLANNING

Determination of Need	**Analysis of Requirement**	**Extent of Competition**	**Source Selection Planning**	**Business Terms & Conditions**
1. Forecasting Requirements 2. Acquisition Planning 3. Purchase Requests 4. Funding 5. Market Research	6. Requirements Documents 7. Use of Government Property and Supply Sources 8. Services	9. Sources 10. Competition Requirements & Unsolicited Proposals 11. Set-Asides 12. 8(a) Procurements	13. Lease vs. Purchase 14. Non-Price Evaluation Factors 15. Non-Price Evaluation Factors 16. Method of Procurement or Purchasing	17. Contract Types — Pricing Arrangements 18. Recurring Requirements 19. Unpriced Contracts 20. Contract Financing 21. Need for Bonds 22. Method of Payment 23. Procurement Planning

Exhibit 6-1. Acquisition Planning Phase of the Federal Acquisition Process.

Learning Objectives

The learning objectives for this chapter are located at the front of the section or subsection to which they apply and are highlighted with gray shading. After completion of this chapter, you will be expected to know all the highlighted learning objectives for this chapter.

Exhibit 6-2. Learning Objectives.

CHAPTER INTRODUCTION

In the Acquisition Planning Phase, the Government decides what is needed and plans how it will be acquired. The major functions of the this phase are shown in Exhibit 6-1.

A principal goal of this phase is to build the solicitation that will be issued to obtain bids, proposals, or quotations from vendors. Solicitations consist of (a) a draft contract and (b) solicitation provisions. The draft contract includes a “Schedule” — which describes the requirement — and Contract Clauses.

The Invitation for Bids (IFB), Request for Proposals (RFPs), and Request for Quotations (RFQ) are solicitation documents. Contracting officers use IFBs for sealed bidding under FAR Part 14, RFPs for negotiations under FAR Part 15; and RFQs for simplified acquisitions under FAR Part 13.

Contract clauses state the rights and obligations of parties to the contract following award.

Solicitation provisions tell offerors or quoters how to prepare and submit offers. Solicitation provisions also describe the evaluation of offers and the offeror's right to protest award. Provisions apply only before contract award and are not included in the resulting contract.

6.1 DETERMINATION OF NEED

Determination of Need	**Analysis of Requirement**	**Extent of Competition**	**Source Selection Planning**	**Business Terms & Conditions**
1. Forecasting Requirements 2. Acquisition Planning 3. Purchase Requests 4. Funding 5. Market Research				

Exhibit 6-3. Steps in Determining the Need

Determination of need is the first function in the entire procurement process. Once a need for supplies or services has been established, a decision is made whether to:

- Fulfill the need “in-house,” using agency facilities and personnel or
- Fulfill the need by contracting.

If a decision is made to fulfill the need by contracting, the procurement process is activated. For the process to be efficient and effective, it must be activated in accordance with a plan, followed by one or more purchase requests, funding, and market research.

Unit 1 Forecasting Requirements

Describe and define:

- Who forecasts needs.
- Why forecasting is necessary.
- What role the CO plays.

Responsibility for Forecasting Needs

Each requiring activity has the responsibility to forecast its needs for supplies and services. (Requiring activities are any organizations that request supplies and services, e.g., program offices, inventory control points, etc.).

Purpose

Forecasting needs helps to ensure that the resulting procurements will:

- Support the mission of each requiring activity or program in a timely manner,
- Coincide with the preparation of budgets and availability of budgeted funds,
- Be accomplished in accordance with acquisition laws and regulations, and
- More fully realize the goals of the acquisition system as described in Chapter 1.

The CO's Contribution

By being aware of the current and future needs of the various organizations, the CO can (1) help requiring activities develop realistic program plans, schedules, and budgets and (2) recommend long-range strategies for reducing the resources and time required for mission accomplishment. Specifically, the CO can advise requiring activities on such matters as:

- Consolidating needs to attain economic ordering quantities.
- The availability of sources and strategies for enhancing competition.
- Market prices, conditions, and trends.
- Production and delivery lead times.
- The best time to enter the market.
- Costs incurred, milestones, problems, and lessons learned from previous acquisitions for comparable requirements.
- Strategies for reducing procurement and delivery lead-times.

The CO uses forecasts in the next step — acquisition planning.

Unit 2 Acquisition Planning

FAR 7.1

Describe and define:

- Why acquisition planning is necessary.
- Who is involved in developing acquisition plans.
- The benefits of acquisition planning.
- Typical elements of acquisition plans.

Definition and Purpose

Acquisition planning means

"the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition." Among the many goals of acquisition planning: "Acquiring commercial and Nondevelopmental Items (NDI)".

Simply stated, after the need for supplies or services is identified, a plan is drawn up to obtain them. The plan identifies the people involved and what they must do.

The organizations and persons responsible for acquisition planning will vary from activity to activity. Generally, the responsibility is divided along organizational lines. For example, within GSA, the Federal Supply Service will plan its acquisitions; the Public Buildings Service will plan its acquisitions, etc.

Responsibility for Planning

Within an organization, planning is the responsibility of the heads of the divisions or branches that originate the requirements. Usually, a senior person within a "requiring activity" is responsible for planning a specific acquisition; this planner could be the responsible commodity manager, inventory manager, or program or project officer. That person should coordinate planning with those organizations or persons who will play a role in the acquisition, including the contracting activity.

Benefits of Planning

Agencies perform acquisition planning and conduct market surveys for all acquisitions to:

- Maximize competition.
- Integrate the efforts of all personnel responsible for the acquisition.
- Ensure that needs are met in the most effective, economical, and timely manner.

Agencies establish criteria and thresholds at which greater detail and formality are required in the plan such as:

- Dollar value.
- Size.
- Complexity.
- Scope, nature, and circumstances of the acquisition.

Elements of an Acquisition Plan

Acquisition plans generally consider and discuss:

- Acquisition background and objectives.
- The plan of action.

In Exhibit 6-4, these two factors are broken down into their component elements. Depending for the most part on the requirement, these elements may have to be addressed in your acquisition plan.

Implementing Acquisition Plans

Acquisition plans are generally prepared by requiring activities and serve, among other purposes, as the basis for initiating the individual contracting actions necessary to acquire a system or support a program. For example, acquisition plans often provide for "breaking out" and separately competing requirements for installation, maintenance, spares, repairs, and the like. Each such requirement represents a separate contract action.

To initiate an individual contract action, the requiring activity prepares and forwards a Purchase Request (PR) to the CO. The CO in turn delegates authority, assigns responsibilities, and identifies milestones for that PR. For the purposes of this text, these decisions by the CO represent the "procurement plan" of the contracting office for that PR.

ELEMENTS OF A TYPICAL ACQUISITION PLAN

FAR 7.105

1. Acquisition Background and Objectives.
   - Statement of need.
   - Applicable conditions.
   - Cost.
   - Capability or performance characteristics.
   - Delivery or performance-period requirements.
   - Trade-offs (among cost, schedule, etc.).
   - Risks.
   - Acquisition streamlining.

2. Plan of Action.
   - Sources.
   - Competition.
   - Source selection procedures.
   - Contracting considerations.
   - Budgeting and funding.
   - Product descriptions.
   - Priorities, allocations, and allotments.
   - Contractor vs. Government performance (OMB Circular A-76).
   - Management information requirements.
   - Make or buy.
   - Test and evaluation.
   - Logistics considerations.
   - Government-furnished property.
   - Government-furnished information.
   - Environmental and energy conservation considerations.
   - Security considerations.
   - Milestones for the acquisition cycle.
   - Identification of participants in acquisition plan preparation.
   - Other considerations, such as standardization.

Exhibit 6-4. Elements of a Typical Acquisition Plan.

As the Livingstons had to do in "The House Dilemma" in Chapter Five, you must answer the first question of "What, precisely, do we want?" This is where determination of need and forecasting requirements come into play. You must determine first what you want and then whether it is possible on your existing budget. As in building a house, in purchasing for the Government your first steps are determining your needs and forecasting requirements.

Having identified your requirements, you must next answer the question "How do we plan to get what we want?" Using what you just read about acquisition planning can help you answer this question. You should list all of the objectives that you identified in the determination of need step, and write a plan for action in order to achieve them. You must decide what capabilities, qualifications, and experience a contractor should have (e.g., a general contractor with experience in home building and a record of satisfactory performance) in order to perform the required work. Your requirements must be within your budget. You need to set milestones for the delivery of specific parts of the house (e.g., date for when the house will be framed, date for when the dry wall will be completed, etc.). You should determine what types of materials you want the builder to use. As you can see, many of the things you wrote down in your determination of need step will help you with your acquisition plan.

The Federal Acquisition Process is an on-going step-by-step process. Each step needs to the next. Planning is of utmost importance to the process. Your next step is initiating the procurement (i.e., putting the plan into action).

After needs are determined, the requiring activity prepares and forwards a purchase request (PR) to the contracting activity for each individual procurement. The initial steps in a procurement are:

- Processing the PR.
- Certifying the availability of funds.
- Identifying the sources from which the supplies or services might be obtained and collecting data on that market.

Unit 3 Purchase Requests

Define and describe:

- Purpose of the Purchase Request.
- Acceptance of the PR and defective PRs.
- Elements of a Purchase Request.
- Steps in processing accepted PRs.

Purpose

The purpose of a purchase request (PR) is to provide the CO with the information and approvals necessary for initiating a procurement.

The CO should advise and assist the requiring activity in preparing a PR. The more the requiring activity consults with the CO during acquisition planning, the more the CO can assist during PR preparation.

Accepting PRs

The PR should be a precise document. If there are any major deficiencies or omissions, the CO should not accept the PR but rather contact the requiring activity to obtain any missing information or make the necessary corrections.

Defective PRs

Procurements commenced on the basis of a defective PR are likely to be troublesome at some point in the process. For example, if a single source acquisition is initiated without justification and approvals, the action may later be protested and the entire process disrupted and delayed. Other consequences of accepting a deficient PR might include:

- Need to cancel a solicitation because of improper approvals or lack of funds.
- Failure to order an economic quantity.
- Failure to include price-related evaluation factors in the solicitation.

Elements

There is no Governmentwide standard form for PRs. As a result, PRs often vary in format from one contracting activity to the next. Despite differences in form, PRs generally tend to have certain elements in common. Exhibit 6-5 shows some of these elements.

TYPICAL ELEMENTS OF A PR

Management reviews and approvals as required by agency policies.

Certification of funds available for the procurement.

Quantity of the item(s) to be procured.

Description of the requirement.

Any recommended special packaging and marking requirements.

Inspection and acceptance requirements.

Delivery or performance requirements.

Any recommended special contract administration requirements.

Any recommended special provisions or clauses (e.g., options, Government-furnished property).

Any recommended price-related factors for award.

Any recommended non-price evaluation factors for award (if factors in addition to price are applicable).

Recommended sources.

Justifications and approvals for other than full and open competition, if needed.

Acquisition plan, if required.

Exhibit 6-5. Typical Elements of a PR.

Processing PRs

After accepting the PR, COs often:

- Establish a contract file.
- Counsel managers on protecting source selection information from unauthorized disclosure.
- Enter the PR in the activity's "tracking" system.
- Start the clock on "Procurement Administrative Lead Time" (PALT). PALT represents the time between (1) acceptance of the PR and (2) award of the contract.

Unit 4 Funding

FAR 32.7

Explain:

- How funds are committed.
- Funding issues.
- The Anti-Deficiency Act.

Committing Funds for Planned Acquisitions

In Section 2.1.2, you learned how funds are appropriated, apportioned, obligated, and converted into outlays. Recall that funds are obligated when the Contracting Officer (CO) awards a contract. The question is how appropriated funds are committed for obligation by the CO.

Two parties commit funds:

- The Authorizing Official, who enters appropriation data (a fund citation and estimated dollar amount) on the PR.
- The Finance Officer, who (1) deducts the PR's dollar amount from the requiring activity's funding account and (2) certifies the availability of those funds on the PR.

Importance of Verifying Availability of Funds

It is improper to solicit offers unless there is a reasonable expectation that a contract will be awarded. Because a contract cannot be awarded without adequate funds, the availability of funds generally must be certified on the PR before offers are solicited. Similarly, funds must be available when processing a contract modification that will increase the contract price.

The following aspects of funding are of particular importance to the CO.

- Funds are appropriated for either a specific use or for a category of uses. For example, some funds are only used for research and development programs, while others are used for operations and maintenance. The CO must ensure that the correct funds are cited.
- Funds have a life in terms of a date by which they must be obligated. In some cases, funds may be used only for work completed within a given fiscal year. Funds are normally “good” for one year or for a specific number of years. The CO must ensure that the procurement is completed (from solicitation of offers to contract award) before the funds “expire.”

- Funds must be adequate for the procurement. If the CO believes the funds are inadequate, he or she might request that the requiring activity either:
  - Make additional funds available, or
  - Reduce the quantity of supplies or level of service to be procured.

Anti-Deficiency Act

The CO ensures that the right kind and amount of funds are available for the solicitation and, later, for contract award. Failure to do so could result in delay or cancellation of the procurement. Even worse, from a personal standpoint, if the CO awards a contract and there are insufficient funds, he or she may be personally responsible for payment under the provisions of the Anti-Deficiency Act.

COs may solicit for unfunded, prospective requirements by:

- Making the solicitation "subject to the availability of funds."
- Including options for increased quantities or extension of the contract period.
- Use of Indefinite Quantity or Requirements terms and conditions.
- Incorporating clauses that provide for year-by-year funding of multiyear requirements.

Unit 5 Market Research

FAR Part 10

Describe the following elements of market research:

- Purpose and definition
- Requirements for market research.
- Recognizing market data relevant to business decisions.
- Listing available sources of data on markets.
- Applying market data in making business decisions.

Purpose

Suppose you were considering purchasing a new car. Your first question might be, “What is available out there?” Other questions might be, “Which cars will suit my particular needs?,” and “Are those cars in my price range?” To answer these and other questions, you do market research. Information obtained from that research would help you to identify suitable cars that are readily available, and affordable.

Definition

FAR 2.101 & 10.000

Market research means:

"Collecting and analyzing information about capabilities within the market to satisfy agency needs." The results of market research are used "to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services."

Requirements For

FAR 10.001

Contracting officers are required to research markets:

- Before developing new requirements documents for an acquisition by that agency.
- Before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold.
- Before soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information is not available and the circumstances justify its cost.

Collecting Data

FAR 10.001

The extent of market research and analysis will vary depending on the urgency, value, and complexity of the proposed acquisition. The following are among the types of data to collect:

- Availability of a commercial item suitable as is, or with minor modifications, for meeting the need.
- Practices of firms engaged in producing, distributing, and supporting the products or services, such as terms for warranties, buyer financing, maintenance and packaging, and marking.
- Requirements of any laws and regulations unique to the supplies or services being acquired.
- Number of sales and length of time over which they must occur to provide reasonable assurance that a particular product is reliable.
- The availability of items that contain recovered materials and items that are energy efficient.
- Distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.
- Size and status of potential sources.
- Customary practices regarding customizing, modifying or tailoring of items to meet customer needs and associated costs.
- Extent to which commercial items or nondevelopmental items could be incorporated at the component level at the component level.

POTENTIAL SOURCES OF MARKET DATA

Technical personnel, commodity specialists, price analysts, and other in-house experts on the supply or service and its market.

Acquisition histories available in your contracting activity.

Catalogs and periodicals, including those published on-line.

COs in other contracting activities and agencies.

Industry buyers of the same or similar supplies or services.

Sources sought synopses and surveys of potential suppliers.

Trade and professional associations.

Nonprofit standards and testing organizations.

Government and non-government data bases.

Exhibit 6-6. Potential Sources of Market Data.

Application of the Data

Market data are applicable to virtually all preaward duties and tasks, such as:

- Determining whether the requirement can be met by a commercial item and therefore is to be procured under FAR Part 12 policies.
- Reviewing proposed requirements documents to ensure that they encompass all acceptable products (if any) in the market.
- Determining when to buy; establishing delivery schedules that are realistic in terms of market conditions and practices.
- Identifying potential sources for the solicitation mailing list.
- Reviewing sole source justifications.
- Determining whether to set the procurement aside for small business concerns.
- Determining whether to buy or lease.
- Identifying price-related and non-price evaluation factors.
- Identifying terms and conditions for the solicitation (e.g., those that are customary in markets for commercial items).
- Establishing quantity breaks.
- Estimating the proper price level or value of the supplies or services.

6.2 ANALYSIS OF REQUIREMENT

Determination of Need	Analysis of Requirement	Extent of Competition	Source Selection Planning	Business Terms & Conditions
	6. Requirements Documents 7. Use of Government Property and Supply Sources 8. Services			

Exhibit 6-7. Steps in Analyzing the Requirement

Analysis of the requirement is the second function in the Acquisition Planning Phase. You should note, however, that these functions do not take place in isolation from each other. For example:

- The requirement must be analyzed to some degree before starting market research.
- The amount of funding is a function in part of the requirement.

The principal goal of this function is to develop the Contract Schedule for the solicitation and resulting contract (although the terms of the Schedule may be the subject of negotiations and altered as a consequence of those negotiations).

Unit 6 Requirements Documents

FAR Part 11

Describe and define the following:

- Reasons and criteria for reviewing requirements documents.
- Types of specifications.
- Federal and Military indexes of specifications and standards.
- Statements of work.
- Other requirements documents.
- Methods for obtaining industry feedback.
- Impact of requirements documents on competition, responsibilities for performance, and price.
- Commerciality determinations.
- Use of simplified acquisition procedures.

Reviewing Requirements Documents

Requirements documents include the specifications or statements of work and related elements of the Purchase Request. The CO may accept requirements documents proposed by the requiring activities "as is" or recommend improvements. In making this determination, COs review the proposed documents to, among other purposes, ensure that the documents:

- Are phrased in terms that that market can satisfy.
- To the maximum extent practicable, describe functions to be performed, the performance required, or essential physical characteristics — rather than design characteristics.
- Establish a valid and reliable benchmark for determining whether offered supplies or services meet the functional need.
- Enable and encourage offerors to supply commercial items, or (to the extent that commercial items suitable to meet the agency's needs are not available) other nondevelopmental items.
- Will allow evaluators to consider “technically acceptable” all available commercial or other nondevelopmental items which can meet the functional need.
- Exclude all products or services (commercially available or not) from consideration that cannot meet the actual functional need.
- Include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.
- Promote full and open competition (or maximum practicable competition when using simplified acquisition procedures), with due regard to the nature of the supplies or services to be acquired.

Types of Specifications

There are three types of specifications: Functional, Performance, and Design. (Note, however, that specifications for complex requirements may be in part functional, in part performance, and in part design.)

Functional Specifications

- √ Describe the deliverable in terms of performance characteristics and intended use, including those characteristics which at minimum are necessary to satisfy the intended use. The focus is on "What is to be done?" or "What need is to be fulfilled?"
- √ Do not specify any particular approach or type of product.
- √ Least restrictive type of specification.

Example: A requirement for a system to purify water, leaving the door open to proposals for providing a chemical additive system, a filtration system, a distillation system, a biosystem, some combination of these systems, or any other approach that will achieve the Government's goals for purity, throughput (e.g., gallons per hour), and systems life.

Performance Specifications

- √ Describe the deliverable in terms of desired operational characteristics. Where an item is purchased against a performance specification, the contractor accepts general responsibility for design, engineering, and achievement of the stated performance requirements. The contractor has general discretion and election as to detail but the work is subject to the Government's reserved rights of final inspection and approval or rejection.
- √ Tend to be more restrictive than functional, in terms of limiting alternatives which the Government will consider and defining separate performance standards for each such alternative.

Example: A requirement for a filtration system to purify water which is cast in terms of operational characteristics (e.g., measures and levels of purity, throughput, systems life, power requirements, etc.).

Design Specifications

- √ Establish precise measurements, tolerances, materials, in process and finished product tests, quality control, inspection requirements, and other specific details of the deliverable. The Government assumes liability for the design and related omissions, errors, and deficiencies in the specification and drawings.

FAR 11.002 & 11.101

- √ Rank in preference behind functional or performance specifications — the FAR requires use of functional and performance specifications "to the maximum extent practicable" in lieu of design specifications.

Example: A requirement for a filtration system to purify water which includes blueprints for the casing, valves, impellers, filters, and power module and also specifies the materials to be used for each component of the system.

Standards

Standards establish engineering and technical limitations and applications of items, materials, processes, methods, designs, and engineering practices. Standards include any related criteria deemed essential to achieve the highest practical degree of uniformity in materials or products or interchangeability of parts. Standards supplement specifications and are generally incorporated by reference in the solicitation document.

"Voluntary standards" are those established by a private sector body and available for public use. To the extent applicable, give "voluntary" standards preference over all other types of product descriptions (and give "commercial item descriptions" second priority).

FAR 11.101

On the other hand, the FAR ranks non-mandatory (i.e., non-FED or MIL Spec) Government-unique standards and specifications dead last in order of preference.

FED Specs, MIL Specs, & PDs

To define requirements in solicitations, CO's either cite applicable Federal or Military specifications or incorporate purchase descriptions.

Federal Specifications (FED Specs). Specifications and standards for products commonly used by Government Agencies. GSA lists them in the Index of Federal Specifications, Standards, and Commercial Item Descriptions. Applicable FED Specs are generally incorporated by reference in the solicitation. Unless otherwise authorized, specifications and standards listed in this index are mandatory when acquiring the supplies covered by them.

Military Specifications (MIL Specs). The Department of Defense (DoD) maintains MIL specs and publishes them in the DoD Index of Specifications and Standards. Applicable MIL Specs are generally incorporated by reference in the solicitation.

Product Descriptions (PDs). PDs describe physical characteristics or functions required to meet the Government's need. Prepare PDs when FED Specs or MIL Specs are inapplicable or do not fully cover the requirement.

Statements of Work

A Statement of Work (SOW) describes the contract work to be performed and incorporates any applicable specifications. COs review SOWs proposed by requiring activities against the criteria described in Exhibit 6-8.

A GOOD SOW . . .

- Is a clear, precise, and complete statement of the work to be performed.
- Makes a clear-cut division of responsibility between the contracting parties.
- Does not exceed the Government's actual need.
- Is not unduly restrictive.
- Is stated in terms that the market can satisfy.

Exhibit 6-8. Criteria For The SOW.

The scope and elements of a SOW varies greatly depending on what is being procured. A SOW for a major system will be complex, quite long, and incorporate numerous specifications. A SOW for lawn-mowing service, however, will be fairly simple and short. It may or may not incorporate any specifications. Exhibit 6-9 is a listing of the items that may be included in a SOW.

ITEMS THAT MAY BE INCLUDED IN THE SOW

Background.

General scope of work/objectives.

Contractor tasks.

Functional/performance/design specifications (e.g., common nomenclature, kind of material, technical data, dimensions, size, capacity, principles of operation, restrictive environmental conditions, and intended use).

References to related studies, documentation, specifications, and standards.

Data requirements.

Support equipment for contract end items.

Government- and buyer-furnished property, facilities, equipment, and services.

Exhibit 6-9. Items That May Be Included in the SOW

Other Requirements Documents

While reviewing specifications and SOWs, COs should consider related aspects of the requirement in terms of (1) consistency with the specifications and/or the SOW and (2) potential impact on such goals as quality, timeliness, cost, risk, and competition. Related aspects of the requirement include, among others:

- Packaging and marking requirements.
- Inspection and acceptance criteria and requirements.
- Quality assurance surveillance plans for service contracts.
- Delivery or performance schedules.
- Instructions for preparing and submitting offers.
- Any applicable price-related and non-price evaluation factors.

Industry Feedback

Prior to soliciting offers, requiring activities may wish to (1) assess the interest of prospective suppliers in providing the required supplies or services and (2) obtain feedback from the market on the proposed requirements documents. Working with the CO, such feedback can be obtained through early exchanges with prospective offerors, through such means as:

- Presolicitation notices.
- Presolicitation conferences.
- Requests for Information and draft Requests for Proposals.
- One-on-one meetings.

FAR 3.104 & 24.2

All such exchanges must be consistent with procurement integrity requirements (see Chapter 10).

When conducting exchanges, be careful not to give the appearance of favoring one potential offeror over another. Ensure that comparable access to Government officials is granted to all potential offerors.

Do not disclose information from prospective offerors if doing so would reveal that offeror's confidential business strategy. When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, make that information available to the public as soon as practicable, but no later than the next general release of information.

Impact of Requirements Documents

When preparing or reviewing requirements documents, consider their impact on:

Competition. Requirements documents should only exclude those products or services which cannot satisfy the Government's actual needs. For example, you may only require that a deliverable be compatible with the equipment of XYZ Corporation if such compatibility is really needed. Otherwise, that requirement may improperly rule out products of other corporations that can meet the need.

Responsibility for performance. Any error, imprecision, ambiguity, or other such deficiency in a requirement document may, in part, relieve the contractor of responsibility for acceptability of the work. For example, suppose that a contract includes a design specification, and the contractor builds the device in conformance with the specification. If the device doesn’t work, who is responsible?

Cost or price. Requirements documents have a direct effect on the price the Government pays. Avoid “goldplating” — stating unnecessary requirements. For example, it would be wasteful to require that timers be waterproof if the timers will be wall-mounted in an office building.

Commerciality Determination

As the last step in their review of proposed requirements documents, contracting officers determine whether or not the requirement can be met by a "commercial item", as that term is defined in FAR §2.101. This determination is made prior to soliciting offers and WITHOUT asking prospective offerors to certify that their items are “commercial”.

If market research establishes that the requirement can be met by a commercial item or service (as defined in §2.101), contracting officers must observe the policies in FAR Part 12 to solicit offers and make award. If the Government requirement cannot be met by a type of item or service customarily available in the market place, the policies in Part 12 do NOT apply.

However, Part 12 does NOT apply to the acquisition of commercial items:

- At or below the micro-purchase threshold.
- Using the SF 44.
- Using the imprest fund.
- Using the Governmentwide commercial purchase card.

FAR Part 12 was written to make the process of buying commercial items as similar as possible to that used by private sector buyers in commercial markets. When acquiring commercial items, contracting officers may use any of the traditional methods of procurement using the procedures prescribed for that method in the relevant FAR Part (i.e., simplified acquisition under FAR Part 13, sealed bidding under FAR Part 14, or negotiation under FAR Part 15). However, the policies in FAR Part 12 impose unique constraints on the award process (particularly on the drafting of the solicitation) and on terms and conditions in the resulting contract. For instance, FAR Part 16 permits the use of any type of contract when soliciting and awarding contracts under FAR Part 15. FAR Part 12, on the other hand, only allows firm fixed price contracts and fixed price contracts with economic price adjustment in contracts for commercial items regardless of the method of procurement. In such cases, the policies in FAR Part 12 overrule conflicting policies in other FAR Parts.

Use of Simplified Acquisition Procedures

After determining whether the policies in FAR Part 12 apply to the procurement, contracting officers can then decide whether or not to use the Simplified Acquisition Procedures (SAP) of FAR Part 13 to satisfy the requirement. Ordinarily, SAP will be used when the requirement is under the Simplified Acquisition Threshold (SAT) of $100,000 regardless of whether or not the requirement is for a commercial item. Also plan to use SAP for requirements at or below $5 million "to the maximum extent practicable" when you reasonably expect, based on the nature of the supplies or service sought and on market research, that quotes/offers will only include commercial items. The policies in FAR Part 13 influence a number of subsequent decisions in the acquisition process, including decisions on sources of supply, the extent of competition, set-asides, evaluation factors, method of soliciting, solicitation terms, extent and nature of discussions (if any), and the award instrument, among others.

Unit 7 Use of Government Property and Supply Sources

FAR Part 45

- Identify types of GFP.
- State reasons for making GFP available to contractors.

Contractors are ordinarily expected to furnish all property necessary to perform the work of the contract. When in the Government's best interests, however, the CO can authorize a contractor to use Government-Furnished Property (GFP).

For example:

- The Government may be the only source of supply for an item that is to be used in connection with contract performance (e.g., certain nuclear products), or
- The cost of furnishing Government property to a contractor may be less than having the contractor furnish it.

Examples of GFP that may be provided are:

- Facilities.
- Material.
- Motor Vehicles.
- Special Tooling.
- Special Test Equipment.

In some cases, the CO may authorize contractors to acquire property for the Government. While the contractors will use this property in performing the work of the contract, title to such property ultimately passes to and is vested in the Government.

When property is to be furnished, describe the property in the Schedule or specifications and incorporate the clauses prescribed in FAR Part 45. The CO may also solicit offers predicated either on use of Government property or on the use of equivalent contractor-furnished property—as one way of deciding whether the Government would incur a lower total cost by furnishing the property as GFP.

In addition to furnishing GFP, the CO may, if it is in the Government's interest, authorize contractors to use:

- Interagency motor pool vehicles (and related services).
- Government supply sources, such as:
  - Stocks maintained by certain agencies (e.g. helium from the Department of the Interior).
  - Federal supply schedules (e.g., GSA indefinite-delivery contracts).

Generally, the use of government supply sources and interagency motor pools is limited to cost reimbursement type contracts.

Unit 8 Services

FAR Part 37

- Distinguish personal from nonpersonal services
- Describe the Service Contract Act and requirements for wage determinations.
- Distinguish "advisory and assistance services" from other types of services.

Service contracts are awarded for the "performance of an identifiable task, rather than for furnishing an end item of supply."

Personal Vs. Nonpersonal Services

Services may be personal or nonpersonal:

Personal: When contractor personnel appear to be, or are treated as, Government personnel.

Nonpersonal: When contractor personnel are not subject to the supervision and control of Government personnel.

A nonpersonal services contract may involve either:

Professional (e.g., engineering and technical) or

Nonprofessional (e.g., janitorial) services, or both.

Agencies may not award personal service contracts unless contracting for such services is specifically authorized by statute. (Note: Services furnished by temporary help firms are not treated as personal services.) Nonpersonal service contracts are very common and include services such as those listed in Exhibit 6-10.

But, beware: A nonpersonal services contract, if improperly administered, may be viewed as being a personal services contract. If so, it may be improper.

EXAMPLES OF NONPERSONAL SERVICES

Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.

Routine recurring maintenance of real property.

Housekeeping and base services.

Advisory and assistance services.

Operation of Government-owned equipment facilities and systems.

Communication services.

Architect-Engineering.

Transportation and related services.

Exhibit 6-10. Nonpersonal Services

Service Contract Act and Wage Determinations

Generally, contracts over $2,500 for services are subject to the Service Contract Act (SCA) of 1965, which provides for "minimum wages and fringe benefits as well as other conditions of work..."

FAR 22.1

If a proposed contract involves services, the CO may be required to request wage determinations from the Department of Labor for some or all of the employees who provide the service. The Secretary of Labor is responsible for determining the prevailing wage rates by different geographic areas for those classifications of service employees that are covered by the Act. The CO includes the wage rates in the solicitation; offerors are then on notice that those rates are the minimum that must be paid under the resulting contract.

Sometimes, services and supplies are required under the same contract. As a general rule, if the service work is an incidental part of contract performance, the Service Contract Act does not apply.

Advisory and Assistance Services

Agencies sometimes contract for "advisory and assistance" services of the types described in Exhibit 6-11.

ADVISORY AND ASSISTANCE SERVICES

Management and professional support services (e.g., efforts that support program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, performance auditing, and administrative/technical support for conferences and training programs).

Studies, analyses and evaluations (e.g., assessments/evaluations in support of policy development, decision-making, management, or administration — including studies in support of R&D activities and acquisitions of models, methodologies, and related software supporting studies, analyses or evaluations — BUT NOT basic research involving mathematics, medical, biological, physical, social, psychological, or other phenomena).

Engineering and technical services. (but not architectural and engineering services as defined in the Brooks Architect-Engineers Act)

Exhibit 6-11. Advisory and Assistance Services

Before processing requests for advisory and assistance services, CO's must determine that the requested services may properly be acquired. Among other things, ensure that contracts for advisory and assistance services:

- Reserve final determination for Government officials;
- Require proper identification of contractor personnel who attend meetings, answer Government telephones, or work in situations where their actions could be construed as acts of Government officials unless, in the judgment of the agency, no harm can come from failing to identify themselves; and
- Require suitable marking of all documents or reports produced by contractors.

Do not contract:

- To perform "inherently Governmental functions" (i.e., work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials).
- To bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.
- On a preferential basis to former Government employees.
- Under any circumstances specifically to aid in influencing or enacting legislation.

- To obtain professional or technical advice which is readily available within the agency or another Federal agency.
- To conduct evaluations or analyses of any aspect of a proposal submitted for an initial contract award. Exceptions:
    - The agency head determines in writing that “covered personnel” are not readily available either in the requesting agency or from another agency with adequate training and capabilities to perform the required proposal evaluation, OR
    - The contractor is a Federally-Funded Research and Development Center (FFRDC) and the work placed under the FFRDC’s contract meets the criteria of 35.017-3.

6.3 EXTENT OF COMPETITION

Determination of Need	**Analysis of Requirement**	**Extent of Competition**	**Source Selection Planning**	**Business Terms & Conditions**
		9. Sources 10. Competition Requirements & Unsolicited Proposals 11. Set-Asides 12. 8(a) Procurements		

Exhibit 6-12. Steps in Determining the Extent of Competition

One goal of the procurement process is to create competition among sources that provide supplies and services. However, other goals may result in limiting competition. The extent to which you foster competition depends on factors such as:

- Requirements in law or regulation to use specific suppliers.
- Requirements for “maximum practicable” and “full and open” competition.
- The validity and suitability of an unsolicited proposal.
- Requirements to set aside procurements for small business.
- Availability of suppliers under the 8(a) program.

Unit 9 Sources

- List and describe the various required sources of supplies and services.
- Describe a solicitation mailing list and how it is used.

Required Sources

FAR Part 8

A number of statutes and regulations restrict the sources that may be solicited. If the needed supplies or services are available from a required source, the CO must order from that source instead of soliciting offers from the open market. With respect to supplies and services generally, CO's are required to consider the sources in Exhibit 6-13.

REQUIRED SOURCES OF SUPPLIES AND SERVICES,
IN PRIORITY ORDER

1. Specified sources for public utility services, printing and related supplies, automatic data processing and telecommunication acquisitions, leased motor vehicles, excess strategic and critical materials, and helium.
2. Agency inventories.
3. Excess from other agencies.
4. Federal Prison Industries, Inc. (supplies only)
5. Products or services available from the Committee for Purchase from the Blind and Other Severely Handicapped (“Workshops”).
6. Wholesale supply sources, such as:
   - Stock programs of the GSA.
   - Defense Logistics Agency.
   - Department of Veterans Affairs.
   - Military inventory control points.
7. Mandatory Federal Supply Schedules.
8. Mandatory agency delivery and task order contracts; Blanket Purchase Agreements.
9. Optional use Federal Supply Schedules.
10. Commercial sources, including educational and nonprofit institutions and, for services, Federal Prison Industries, Inc.

Exhibit 6-13. Required Sources, in Priority Order

Mailing Lists

FAR 14.205

When required sources cannot meet the Government's need, CO's turn to the open market. This entails identifying potential suppliers and developing mailing lists of the suppliers. Prospective offerors are added to these lists after they submit an application describing the company and the kinds of supplies and services that they offer.

When soliciting offers and quotations, COs will specifically invite offers or quotations from:

- Sources recommended in the PR by the requiring activity.
- Sources on the appropriate mailing list.
- Other sources that may respond as a result of the publicizing described in Chapter 7.

Using source lists and a solicitation mailing list:

- Helps to promote competition commensurate with the dollar value of the proposed contract
- Saves time and effort in finding sources for individual PRs.

Unit 10 Competition Requirements and Unsolicited Proposals

FAR Part 6

- Define and describe full and open competition (FAOC).
- Describe when other than full and open competition is permitted.
- Describe requirements for “maximum practicable” competition.
- Explain the procedure for handling and receiving an unsolicited proposal.

FAOC Defined

The Competition In Contracting Act (CICA) of 1984 requires COs to promote and provide for FAOC in soliciting offers and awarding contracts. FAOC means that all responsible sources are permitted to compete.

Other Than FAOC

FAOC is not required for contracts awarded through the simplified acquisition procedures of FAR Part 13 or, for the most part, when ordering against multiple award schedules of the General Services Administration. In addition, there are seven statutory circumstances that permit contracting without FAOC (see Exhibit 6-14).

CO's also have statutory authority to exclude some sources from competing for a particular acquisition, when necessary to:

- Set-aside the contract (i.e., to exclude other than small business concerns from competing for the award).
- Make a competitive award to an 8(a) firm.
- Establish secondary or back-up sources for national defense purposes.
- Establish or maintain certain research and development organizations.

In most instances, a written justification is required if FAOC is not provided for. Generally, the justification is prepared by the CO based on information provided by the requiring activity. Depending on the dollar value of the proposed contract, the justification must be approved in writing by:

- The CO (if the proposed contract does not exceed $500,000).
- The competition advocate (if between $500,000 and $10,000,000).
- The head of the "procuring" (i.e., generally the same as contracting) activity or designee (if between $10,000,000 and $50,000,000).
- The senior procurement executive (if over $50,000,000) of an agency other than DoD, NASA, or the Coast Guard.

Maximum Practicable Competition

Simplified acquisitions are subject to "maximum practicable competition" rather than "full and open" competition and therefore are exempt from FAR Part 6. For non-electronic solicitations under $25,000, you can ordinarily satisfy this requirement by soliciting from as few as three qualified vendors in the locality.

However, on occasion, there may be a good reason for restricting competition for simplified acquisitions — namely, one of the reasons in FAR Part 6 for restricting competition over the Simplified Acquisition Threshold (SAT). While contracting officers need not prepare the justifications or determinations prescribed in that FAR Part, FAR Part 6 provides valuable advice on potential reasons for restricting competition particularly when acquiring supplies or services through the electronic solicitations or over $25,000.

CIRCUMSTANCES PERMITTING OTHER THAN FULL AND OPEN COMPETITION

1. Only one responsible source (or a limited number for DoD, NASA, Coast Guard) and no other supplies or services will satisfy agency requirements, such as when:

- No other source is available.
- The contract is a "follow-on" for the continued development or production of a major system or highly specialized equipment or for the provision of highly specialized services, if switching contractors would result in unacceptable delays or a substantially higher cost.
- The contract is in response to an unsolicited research proposal.

2. Unusual and compelling urgency, when:

- Time does not permit FAOC, and
- Delay in award would result in serious financial or other injury.

3. Industrial mobilization; or engineering, developmental, or research capability, when there is a need for:

- Maintaining a facility, producer, manufacturer, or supplier in case of a national emergency or wartime industrial mobilization, or
- An essential engineering or research and development capability to be provided by educational or nonprofit institutions or federally funded research and development centers.

4. International agreements, when the terms of an international agreement or treaty preclude FAOC.

5. Authorized or required by statute, as is the case when procuring from:

- UNICOR (Federal Prison Industries).
- Qualified Nonprofit Agencies for the Blind or other Severely Handicapped.
- GPO or GPO contracts for printing and binding.
- 8(a) contractors.
- Other required sources.

6. National Security, when it would be compromised by broad disclosure of needs.

7. Public Interest, when the agency head determines that FAOC would be contrary to it.

Exhibit 6-14. Circumstances Permitting Other Than Full and Open Competition (FAOC)

Maximum Practicable Competition (Continued)

FAR 13.106-1(b)

Why is this important? FASA requires contracting officers to consider all quotes/offers timely received for a simplified acquisition. Since electronic requests for quotations can reach hundreds or thousands of vendors nationwide and since most non-electronic solicitations over $25,000 must be published in the Commerce Business Daily, such publicity can result in hundreds or thousands of quotes for a single contract award. However, there is no point in stimulating the production of large volumes of quotes when "the circumstances of the contract action deem only one source reasonably available" (e.g., because of urgency, exclusive licensing agreements, or industrial mobilization, or a law that specifies a single source).

Unsolicited Proposals

FAR 15.6

An unsolicited proposal is:

"a written proposal that is submitted to an agency on the initiative of the submitter for the purpose of obtaining a contract with the Government and which is not in response to a formal or informal request..."

Award without full and open competition is permitted if a firm has submitted an unsolicited research proposal that:

- Demonstrates a unique and innovative concept or a unique capability of the source to provide the particular research services proposed.
- Offers a concept or services not otherwise available to the Government, and
- Does not resemble the substance of a pending competitive acquisition.

Federal agencies are responsible for establishing contact points and procedures for the receipt, handling, and evaluation of unsolicited proposals. The Government only comprehensively evaluates unsolicited proposals that are related to its mission. If an unsolicited proposal receives a favorable evaluation, the requiring activity forwards the unsolicited proposal to the CO. However, the CO may only award without competition under the conditions specified in FAR 15.507.

Unit 11 Set-Asides

FAR Part 19

- Define set-aside.
- Define small business.
- Describe size standards and their application.
- Describe the purpose and types of set-asides.

Set-Aside Defined

A set-aside is an acquisition reserved exclusively for small business concerns or small business concerns in Historically Underutilized Business (HUB) Zones. The CO sets aside an individual acquisition or class of acquisitions to:

- Ensure that a fair proportion of Government contracts in each industry category is placed with small businesses.
- Maintain or mobilize the nation's full-productive capacity.
- Aid war or national defense programs.

Small Business Defined

FAR 19.001

A small business concern means a concern (including its affiliates) which is (1) independently owned and operated, (2) not dominate in the field of operation in which it is bidding on Government contracts, and (3) qualifies as a small business under the criteria and size standards in 13 CFR Part 121. A "small disadvantaged business concern" means a small business concern that is (1) at least 51% unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or (2) a publicly owned business that has at least 51% of its stock unconditionally owned by one or more socially and economically disadvantaged individuals.

Size Standards

FAR 19.1

The Small Business Administration (SBA) establishes size standards on an industry-by-industry basis. The standards are based on either the number of employees in a company or the annual receipts of a company. The size standards are listed in the FAR for each Standard Industrial Classification (SIC) code. The number of employees or annual receipts for each SIC code establish the maximum limits on eligibility for classification as a small business concern. Some examples are provided in Exhibit 6-15. Note that under FAR Subpart 19.10, some SIC codes are not available for small business set-asides to designated agencies.

EXAMPLES OF SIZE STANDARDS SET BY THE SBA

SIC Code	Description	Size
1541	General Contractor-Industrial Buildings	$17 Million
1731	Electrical Work	$7 Million
7538	General Automotive Repair Shops	$3.5 Million
3111	Leather Tanning and Finishing	500 People
3398	Metal Heat Treating	750 People
3482	Small Arms Ammunition	1,000 People

Exhibit 6-15. Examples of Size Standards

Application of Size Standards

Size standards are used as follows:

- The CO issues a solicitation for electrical work.
- The solicitation is set aside for small business.
- The size standard in the solicitation is expressed as "SIC Code 1731, Size Standard $7.0 million." Only electrical contractors with annual average gross revenues of $7.0 million or less are eligible for award.

Purpose of Set-Asides

FAR 19.5

Agencies establish set-aside programs to achieve their small business goals. To achieve a fair proportion of set-asides, agencies may decide on a case-by-case basis or on a "class" basis, (e.g., all purchases of a given commodity are set aside for small business). Decisions to set aside all or a part of a given acquisition may involve the following:

- Representatives of the Small Business Administration.
- Representatives of the requiring activity.
- The small business specialist in the contracting office.
- The CO.

Type of Set-Asides

The small business set aside programs can be further divided into the following four categories, in order of priority:

1. Total HUBZone Set-Aside and Sole Source Awards

FAR 19.13

Under a total HUBZone set-aside, competition for the entire requirement is limited to SBA's "List of Qualified HUBZone Small Business Concerns". Contracting officers set aside any acquisition over $100,000 for HUBZone small business participation when there is a reasonable expectation that (1) offers will be obtained from at least two concerns and (2) award will be made at fair market prices. Contracting officers also may set aside a requirement under the $100,000 threshold for HUBZone small business concerns.

What if only one HUBZone small business concern can satisfy the requirement? Consider a sole source award to that concern if:

- The anticipated price of the contract, including options, will not exceed—
  - $5,000,000 for a requirement within the Standard Industrial Classification (SIC) codes for manufacturing; or
  - $3,000,000 for a requirement within any other SIC code;
- The requirement is not currently being performed by a non-HUBZone small business concern;
- The acquisition is greater than the SAT;
- The HUBZone small business concern has been determined to be a responsible contractor with respect to performance; and
- Award can be made at a fair and reasonable price.

2. Total Small Business Set-Aside For Acquisitions Under $100,000

Simplified acquisitions over $2,500 but not over $100,000 are generally reserved for small business concerns. In addition to the exception for HUBZone set asides and sole source awards, there are several exceptions to this broad set-aside. For instance, the CO may solicit quotations from large business concerns if there is no reasonable expectation of obtaining quotations from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis.

3. Total Small Business Set-Aside Over $100,000

Under a total set-aside, the entire amount of an individual acquisition or class of acquisitions is reserved for small business concerns (regardless of geographic location). In general, contracting officers establish a total set aside for small business concerns when there is a reasonable expectation that (1) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (2) award will be made at fair market prices.

4. Partial Small Business Set-Aside

Under a partial set-aside, part of the requirement is reserved exclusively for small business concerns. This may happen when a requirement is too large to be filled entirely by a small business. To establish a partial set-aside, the CO must be able to divide the requirement into reasonably sized lots or batches.

Unit 12 8(a) Procurements

FAR Part 19.8

- Define the purpose of the 8(a) Program.
- Describe why an 8(a) program might be used to meet a specific requirement for supplies or services.

Purpose

Section 8(a) of the Small Business Act of 1953 authorizes the Small Business Administration (SBA) to serve as a prime contractor in meeting the requirements of Federal agencies. SBA then subcontracts with small businesses that are at least 51% owned by socially and economically disadvantaged persons. The program gives such firms an opportunity to develop into experienced, strong competitors for future contracts. However "an 8(a) contract may not be awarded if the price of the contract results in a cost to the awarding agency which exceeds a fair market price." When the award price is likely to exceed $3 million, award of an 8(a) contract may have to be made through competitive sealed bid or negotiated procedures.

Utility

While some 8(a) acquisitions must now be competed, many 8(a) acquisitions are not subject to the requirements of Full and Open Competition. This translates into reduced lead time for award. Moreover, many 8(a) contractors have proven to be sure, reliable, and economical performers. Once again, market research is the key to making the 8(a) program work for your agency.

6.4 SOURCE SELECTION PLANNING

Determination of Need	**Analysis of Requirement**	**Extent of Competition**	**Source Selection Planning**	**Business Terms & Conditions**
			13. Lease vs. Purchase 14. Price Related Factors 15. Non-Price Evaluation Factors 16. Method of Procurement or Purchasing	

Exhibit 6-16. Steps in Source Selection Planning

When competition is anticipated, the CO must have a basis for selecting the best offer. Price or cost to the Government is a mandatory factor in source selections. Other factors may also be used to select the source whose offer will be most advantageous to the Government. The following subsections identify some of those factors and also the various methods for soliciting offers and quotations based on those factors.

Unit 13 Lease Vs. Purchase

FAR Part 7.4

- Explain the process and criteria for determining whether leasing or purchasing is more advantageous to the Government.
- Identify types of equipment commonly leased.

Process and Criteria

The Government solicits offers for equipment by leasing, purchasing, or both. If the CO decides to solicit both kinds of offers, he or she evaluates them and determines whether a purchase or a lease represents the lowest cost to the Government. Leasing with an option to purchase is also possible.

Agencies decide whether to lease or purchase equipment on a case-by-case evaluation of comparative costs and on other factors such as:

- Net purchase cost vs. the cumulative leasing cost.
- Potential obsolescence.
- Immediate need vs. uncertain long-term need.
- Transportation, installation, and maintenance costs.
- Funding availability.

Types of Equipment Commonly Leased

Some examples of equipment that may be suitable for leasing are:

- ADP (automated data processing).
- Materials handling and heavy construction equipment.
- Automobiles.
- Office machines.

Unit 14 Price-Related Factors

FAR Part 14.201 & 15.304

- Define price-related factors and their purposes.
- List typical price-related factors.

Definition and Purpose

At times, contracting officers can determine the lowest priced offer simply by looking at the bottom line. For other procurements, the lowest priced item actually might cost the Government more than a higher priced item, when the cost of ownership is considered. For example, Brand A might cost $100 less to buy but cost $300 more a year in electricity than Brand B. Hence, like any other consumer, the Government needs the flexibility to select that offer or combination of offers that represents the "best buy" in terms of lowest total cost to the Government over the expected life of the deliverable. Price related factors provide the Government that flexibility.

Typical Factors

One of the most commonly applied factors is transportation costs.
For example:

Company B is the low offeror. However, delivery is FOB origin, meaning the Government will pay delivery charges to the destination. The cost of shipping from Company A is $900 and the cost of shipping from Company B is $2100. The price-related factor (transportation) would result in total costs to the Government as follows:

Company A — $60,000 + $900 = $60,900

Company B — $59,200 + $2,100 = $61,300

Accordingly, it would be in the "best interests of the Government" to award to Company A.

To be fair to the offerors, however, the Government must tell offerors in the solicitation which price-related factors, if any, will apply in calculating the "best buy" price. One of the contracting officer's roles in source selection planning is to select price-related factors for the procurement.

NOTE: Price-related factors are listed in Section M of solicitations for non-commercial items.

Exhibit 6-17 lists some of the more commonly applied factors.

Unit 15 Non-Price Evaluation Factors

FAR 15.304

- State the role of the CO in reviewing the non-price evaluation factors.
- Identify the purpose of non-price factors and list examples of such factors.
- Distinguish between determinations of technical acceptability and "trade-off" analysis.
- Define the terms reliability and validity.
- Distinguish "special standards of responsibility" from business management factors applied in trade-off analyses.

CO's Role in Establishing Factors

Contracting officers may decide to base selection for award on more than just price, by applying non-price evaluation factors. The factors are drafted by the requiring activity or source selection authority (if other than the CO), reviewed by the CO for clarity and completeness, and included in the solicitation.

Purpose and Examples

Non-price evaluation factors are used when the quality of performance is as important as, or more important than, price. Exhibit 6-18 lists potential non-price evaluation factors.

COMMONLY APPLIED PRICE-RELATED FACTORS

1. Socio-Economic Factors
   - Price adjustment for small disadvantaged business concerns.
   - Price adjustment for HUBZone small business concerns.

2. Foreseeable costs or delays:
   - Transportation costs.
   - Cost of furnishing government property to the contractor.
   - Prices for various options.
   - Submission of separate prices for leasing the item vs. buying it.
   - Proposed or expected costs for maintenance, warranty, repairs, training, installation, manuals, spares, and supplemental supplies.
   - Expected energy costs.
   - Life-cycle cost (i.e., expected life, salvage value; discounted total cost of ownership).

3. Changes requested by an offeror, provided that the offer is not rejected.
   - Assumed Economic Price Adjustments (if offerors propose different terms than established in the solicitation).

4. Advantages or disadvantages from making more than one award.
   - Incremental pricing (i.e., separate prices for different lots—such as one price for the first 100 of the item, and a separate price for the next 500).
   - Family buy pricing (i.e., separate prices for different combinations of line items).
   - $500 is used as administrative cost for each additional award made.

5. Federal, State, and local taxes.

6. Origin of Supplies
   - Buy American Act.
   - Trade Agreements Act.

Exhibit 6-17. Examples of Commonly Applied Price Related Factors.

Determining Technical Acceptability

Sometimes the only issue is whether the technical proposal of the lowest priced offer or quotation is or is not acceptable. In these cases the non-price evaluation factors are used only on a "pass/fail" or "go/no go" basis.

Trade-Off Analysis

In other cases, proposals are scored or rated against the non-price factors by technical personnel to help determine which offerors have the best potential for successfully completing the work. Higher rated proposals are given more favorable consideration than lower rated proposals. At times, based on such rankings, the Government will award to an offer with a higher price than an offer that ranked lower on the non-price evaluation factors.

For example, if the statement of work requires the development of an item that will later be produced in quantity, a non-price evaluation factor might be “Design for Producibility.” The extent to which the producibility factor is addressed in the proposal is evaluated and rated.

Reliability and Validity

To achieve the goal of identifying the “best” offeror, evaluation factors must be reliable and valid:

> **To be reliable**, a factor should cause comparable evaluators to evaluate the same proposal consistently.
>
> **To be valid**, a firm ranking high on the factor should in fact have a higher probability of successfully performing the work than a firm that ranks low on the factor.

Special Standards of Responsibility

Some non-price factors address the capability of the offeror to perform the work, as opposed to the technical merits of the proposal. When used in ranking proposals, such factors are often referred to as “business management” factors. If applied on a “pass/fail basis,” such factors represent “special standards of responsibility” for use in determining an offeror's responsibility.

POTENTIAL NON-PRICE EVALUATION FACTORS

Past Performance of the Same or Similar Work.

Problem Definition.

Technical Approach or Methodology.

Qualifications of Key Personnel.

Management Capability.

Exhibit 6-18. Potential Non-Price Factors

Source Selection Procedures For Major Acquisitions

Most agencies have established detailed source evaluation and selection procedures for major acquisitions. Generally, these procedures prescribe:

- Establishment of a team to evaluate proposals.

- Naming of a Source Selection Authority who might be the CO, the requiring activity manager, or a higher level agency official, depending on the size and importance of the acquisition.
- Preparation of a written source selection plan.

Such source selection plans are designed to:

- Maximize competition.
- Minimize the complexity of the solicitation, evaluation, and selection decision.
- Ensure impartial and comprehensive evaluation of proposals.
- Ensure selection of the source whose proposal is the most realistic and whose performance is expected to best meet the requirements.

However, the majority of procurements use more informal procedures, and the CO is the source selection authority. Even so, if any factors in addition to price are to be used, they must be stated in the solicitation and used in selecting the awardee.

Unit 16 Method of Procurement or Purchasing

FAR Parts 13, 14, & 15

- Describe these procedures for soliciting offers or quotations and the criteria for using them:
- Simplified Acquisition Procedures of FAR Part 13
- Sealed Bidding Procedures of FAR Part 14
- Negotiation Procedures of FAR Part 15
- Two-Step Sealed Bidding Procedures of FAR Part 14

The last step in source selection planning is to decide which of the above four “methods of procurement or purchasing” will be used for soliciting offers or quotations.

Simplified Acquisition Procedures

Simplified Acquisition Procedures (SAP) are generally used to acquire supplies or services under the Simplified Acquisition Threshold (SAT) and also may be used for certain commercial items when the expected price of those items is at or below $5 million (see Unit 6 for the decision to use SAP).

When the simplified acquisition procedures of FAR Part 13 are used, the CO generally will:

√ Publicize the proposed action (see Chapter 7 for information on methods and requirements for publicizing FAR Part 13 proposed contract actions).

√ Solicit quotations .

√ Evaluate quotations (technical and price).

√ Negotiate quotations (if and to the extent necessary) with one or more of the quoting business concerns.

√ Select a business concern for award based on price and any other evaluation factors.

√ Issue a Purchase Order (which becomes a contract upon acceptance by the vendor).

At this point in the process, the critical decision is the method for soliciting quotations. Under FAR Part 13, you have essentially three choices:

- Prepare and issue a Request for Quotations (RFQ) through the “Governmentwide Point of Entry” (GPE).
- Solicit quotations orally.

- Prepare and issue an RFQ in either paper (for issuance through snail mail or fax machines) or electronic form (for issuance through email and other non-GPE channels).

The Federal Acquisition Computer Network (FACNET) is one GPE. To obtain maximum practicable competition, plan to use the GPE to solicit quotations whenever eligible, qualified vendors are available through the GPE. Otherwise, solicit orally to the maximum extent practicable.

In particular, use oral solicitations when all of the following are true:

- Oral solicitation is more efficient than soliciting through any available electronic commerce alternatives.
- The action is exempt from requirements for synopsizing in the Commerce Business Daily (e.g., under $25,000 or covered by one of the exceptions to synopsizing at FAR 5.2).
- There is only one or a few line items.
- The requirement can be described verbally in complete, consistent, and unambiguous terms that will enable vendors to calculate and quote prices on-the-spot.

Sealed Bidding

FAR 6.401

Sealed Bidding is generally used for the acquisition of supplies or services that can be precisely described and competed only on the basis of price and price-related factors (although non-price factors may be used on a "go/no-go" basis). In addition, the following conditions must also be present:

- Time permits the solicitation, submission, and evaluation of sealed bids.
- It is not necessary to conduct discussions with the offerors about the bids (adequate item descriptions or specifications are available).
- There is a reasonable expectation of receiving more than one sealed bid.

When sealed bidding is used:

1. The CO publicizes the proposed action.
2. The CO issues an Invitation for Bids (IFB).
3. Offerors submit sealed bids.
4. The bids are publicly opened.
5. Award is made to the low, responsive, responsible bidder.

The low bid price is the "evaluated" low price. That is, price-related factors, such as transportation costs, are considered together with the bid price to determine which bid results in the lowest overall or evaluated cost to the Government. Price-related factors, if any, must be stated in the IFB.

Negotiation Procedures

The Government negotiates with one or more offerors when sealed bidding is not appropriate. When competitive negotiation procedures are used, the CO generally will:

1. Publicize the proposed action.
2. Issue a request for proposals (RFP).
3. Evaluate proposals (which may in part be oral rather than entirely in writing, when the RFP establishes procedures for submission of oral proposals).
4. Establish a "competitive range" that consists of all the most highly rated proposals (unless the range is further limited for purposes of efficiency, as described in Unit 44).
5. Hold discussions with offerors in the competitive range.
6. Request final offers from offerors in the competitive range.
7. Award a contract based on price and the other evaluation factors stated in the RFP.

For noncompetitive proposals (i.e., "sole source" procurements), the CO negotiates with the offeror until satisfied that the contract price and other terms and conditions are acceptable to the Government.

Two-Step Sealed Bidding

FAR 14.5

Two-Step Sealed Bidding is a combination of competitive negotiation and sealed bidding. The procedure is designed to obtain the benefits of sealed bidding when adequate specifications are not available and discussions with offerors might be necessary. The steps are:

1. The CO issues a request for technical proposals after publicizing the proposed action. Technical proposals received are evaluated, and, if necessary, discussed. The objective is to determine the acceptability of the supplies or services offered. Pricing is not involved.
2. Sealed bids are solicited from only those sources that submitted acceptable technical proposals under step one. Award is made as in sealed bidding. Step 2 is not publicized.

6.5 BUSINESS TERMS AND CONDITIONS

Determination of Need	Analysis of Requirement	Extent of Competition	Source Selection Planning	Business Terms & Conditions
				17. Contract Types — Pricing Arrangements 18. Recurring Requirements 19. Unpriced Contracts 20. Contract Financing 21. Need for Bonds 22. Method of Payment 23. Procurement Planning

Exhibit 6-19. Steps in Determining Some of the More Critical Business Terms and Conditions

Based on the decisions made up to this point in the process, you have made fairly substantial progress in building your solicitation. At this point, you are ready to insert the following into the solicitation.

- √ The Contract Schedule (from Units 6 and 7).
- √ Provisions to set-aside the procurement or award to an 8(a) concern, if a decision to that effect was made pursuant to Unit 11 and Unit 12.
- √ Evaluation Factors (from Units 13, 14 and 15)
- √ Provisions and clauses required by FAR Parts 12, 13, 14, or 15, depending in part on the commerciality determination (Unit 6) and in part on the selected method of procurement or purchasing (from Unit 16).
- √ Other provisions and clauses based on decisions made in Units 4, 7, 8, 9, and 10.

You are now ready to make determinations on some of the more critical business-related provisions and clauses —namely, those relating to:

- √ Contract types.
- √ Recurring requirements.
- √ Unpriced contracts.
- √ Contract financing.
- √ Bonds.
- √ Method of payment.

With these decisions in hand, you can plan the next steps in soliciting and evaluating quotations or offers.

Unit 17 Contract Types — Pricing Arrangements

FAR Part 16

- Distinguish fixed-price contracts and cost reimbursement contracts.
- State how the type of contract affects risk.
- Identify the impact of contract type on provisions and clauses.

Types of Contracts

From the contractors' perspective, compensation is perhaps the most important part of a contract. Most Federal contracts are Fixed Price. That is, the contract stipulates a fixed sum of money to be paid the contractor as consideration for performance. Other contracts are Cost Reimbursable. That is, the Government reimburses the contractor for the allowable incurred costs of performance. In practice, COs use almost every conceivable variation on these two basic approaches to compensating contractors, including:

- Firm Fixed Price contracts.
- Fixed Price contracts with Economic Price Adjustment.
- Fixed Price Award Fee contracts.
- Fixed Price Redeterminable contracts.
- Fixed Price Incentive contracts.
- Cost Plus Fixed Fee contracts.
- Cost Plus Incentive Fee contracts.
- Cost Plus Award Fee contracts.
- Cost and Cost Sharing contracts.

- Time and Materials and Labor Hour contracts.
- Combinations of two or more of the above compensation arrangements in the same contract.

These contract types are described in Exhibit 6-20. For each type of contract, Exhibit 6-20 also identifies (1) the principal risk that it has been designed to mitigate, and (2) limitations in the FAR on its use.

Selecting a Contract Type

COs solicit Firm Fixed Price offers or quotations when the risks involved are minimal or improbable. Otherwise, the CO will seek an agreement with a vendor on a contract type and price (or estimated cost and fee) that will result in a reasonable level of risk while providing the firm with the greatest incentive for efficient and economical performance. To select a contract type, the CO must therefore (1) analyze risks inherent in the acquisition, (2) identify the type of contract that would best mitigate the risk or risks at issue, and (3) ascertain whether that contract type would be proper under the circumstances, given any limitations on its use.

In performing those steps, COs consider such factors as the:

- Extent of competition for the requirement.
- Willingness of offerors to compete on a fixed price basis.
- Degree of uncertainty in estimating each element of cost.
- Type and complexity of the requirement.
- Urgency of the requirement.
- Period of performance or length of production run.
- The contractor's technical and financial capability to perform.
- Adequacy of the contractor's accounting system.
- The impact of concurrent contracts on the risks of performing the proposed work.
- Extent and nature of proposed subcontracting.
- Potential impact on the rights and obligations of the contracting parties.

Clauses and Provisions

When sealed bidding is the method of procurement or the acquisition is for commercial items, the CO may solicit offers/quotations based on one of two compensation arrangements: (1) Firm Fixed Price (FFP) or (2) Fixed Price with Economic Price Adjustment (FPEPA). The CO may also solicit any type of ordering arrangement. Having chosen the type of contract to solicit, the CO selects or develops related clauses (e.g., 52.216-18 through 216-22 for indefinite delivery; and 52.232-1 for fixed price payments) and solicits quotations/offers against those clauses.

For other acquisitions under FAR Part 13 or 15, the CO may solicit any type of contract. Using the clause at FAR 52.216-1, the CO informs offerors that the Government contemplates award of the specified type of contract. The CO also incorporates the clauses in the solicitation that are entailed by the type of contract being solicited. However, offerors may propose use of a different type of contract.

	FIRM FIXED PRICE (FFP)	INDEFINITE DELIVERY (ID)	FIXED PRICE ECON. PRICE ADJUSTMENT (FPEPA)	FIXED PRICE AWARD FEE (FPAF)	FP PROSPECTIVE REDETERMINABLE (FPPRD)
Principal Risk To Be Mitigated	None. Costs of performance can be estimated with a high degree of confidence. Thus, the contractor assumes the risk.	At the time of award, delivery requirements are not certain. Use: • Definite Quantity (if the required quantity is known and funded at the time of award). • Indefinite Quantity (if the minimum quantity required is known and funded at award.) • Requirements (if no commitment on quantity is possible at award.)	Market prices for required labor and/or materials are likely to be highly unstable over the life of contract.	Acceptance criteria are inherently judgmental, with a corresponding risk that the end user will not be fully satisfied.	Costs of performance can be estimated with confidence only for the first year of performance.
Use When:	• The requirement is well-defined. • Contractors are experienced in meeting it. • Market conditions are stable. • Financial risks are otherwise insignificant.		The market prices at risk are severable and significant. The risk stems from industry-wide contingencies beyond the contractor's control. The dollars at risk outweigh the administrative burdens of an FPEPA.	Judgmental standards can be fairly applied by an Award Fee panel. The potential fee is large enough to both: • Provide a meaningful incentive. • Justify the administrative burdens of an FPAF.	The Government needs a firm commitment from the contractor to deliver the supplies or services during subsequent years. The dollars at risk outweigh the administrative burdens of an FPPRD.
Elements	A firm fixed price for each line item or one or more groupings of line items.	• "Per unit" price. • Performance period. • Ordering activities and delivery points. • Maximum or minimum limit (if any) on each order. • Extent of each party's commitment on quantity.	A fixed price, ceiling on upward adjustment, and a formula for adjusting the price up or down based on: • Established prices. • Actual costs of the labor or materials. • Labor or material indices.	• A firm fixed price. • Standards for evaluating performance. • Procedures for calculating a "fee" based on performance against the standards.[1]	• Fixed price for the first period. • Proposed subsequent periods (at least 12 months apart). • Timetable for pricing the next period(s).
The Contractor Is Obliged To:	Provide an acceptable deliverable at the time, place, and price specified in the contract.	Provide acceptable deliverables at the per unit price when and where specified in each order, within the contractual ordering limits.	Provide an acceptable deliverable at the time and place specified in the contract at the adjusted price.	Perform at the time, place, and the price fixed in the contract.	Provide acceptable deliverables at the time and place specified in the contract at the price established for each period.
Contractor's Incentive *(other than maximizing Goodwill)* [2]	Generally makes a dollar of profit for every dollar that costs are reduced.	Generally makes a dollar of profit for every dollar that per unit costs are reduced.	Generally makes a dollar of profit for every dollar that costs are reduced.	Generally makes a dollar of profit for every dollar that costs are reduced; earns an additional fee for satisfying the performance standards.	For the period of performance, makes a dollar of profit for every dollar that costs are reduced.
A Typical Application	Commercial supplies and services.	Long-term contracts for commercial supplies and support services.	Long-term contracts for commercial supplies during a period of high inflation.	Installation support services.	Long-term production of spare parts for a major system.
Principal Limitations In Far Parts 16, 32, 35, and 52	Generally not appropriate for R&D.	Per unit price may only be FFP, FPEPA, FP-PRD, or catalog/ market based. Under a Req. contract, must buy it from that contractor .	Must be justified.	Must be negotiated.	Must be negotiated. Contractor needs an adequate accounting system. Prompt redeterminations.
Variants	Firm Fixed Price Level of Effort				Retroactive Redetermination

[1]The amount of the award fee is not subject to the Disputes Clause.

[2]Goodwill being the value of the name, reputation, location and other intangible assets of a firm.

Contract Types — Exhibit 6-20

<table>
<tr><th>FIXED PRICE INCENTIVE (FPI)</th><th>COST PLUS FIXED FEE (CPFF)</th><th>COST PLUS INCENTIVE FEE (CPIF)</th><th>COST PLUS AWARD FEE (CPAF)</th><th>COST OR COST SHARING (C/CS)</th><th>TIME & MATERIALS (T&M)</th></tr>
<tr><td>Labor or material requirements for the work are moderately uncertain. Hence, the Government assumes part of the risk.</td><td colspan="5">Labor hours, labor mix, and/or material requirements (among other things) necessary to perform are highly uncertain and speculative. Hence, the Government assumes the risks inherent in the contract—benefiting if the actual cost is lower than the expected cost; losing if the work cannot be completed within the expected cost of performance. Some cost type contracts include procedures for raising or lowering the fee as an incentive for the contractor to perform at lower cost and/or attain performance goals.</td></tr>
<tr><td>A ceiling price can be established that covers the most probable risks inherent in the nature of the work. The proposed profit sharing formula would motivate the contractor to control costs and meet other objectives.</td><td>Relating fee to performance (e.g., to actual costs) would be unworkable or of marginal utility.</td><td>A objective relationship can be established between the fee and such measures of performance as actual costs, delivery dates, performance benchmarks, and the like.</td><td>Objective targets are not feasible for critical aspects of performance. Judgmental standards can be fairly applied.[1] The potential fee would provide a meaningful incentive.</td><td>• The contractor expects substantial compensating benefits for absorbing part of the costs and/or foregoing fee, or
• The vendor is a nonprofit entity.</td><td>Costs are too low to justify an audit of the contractor's indirect expenses.</td></tr>
<tr><td>• A ceiling price.
• Target cost.
• Target profit.
• Delivery, quality, and/or other performance targets (optional)
• A profit sharing formula.</td><td>• Target cost.
• A fixed fee.</td><td>• Target cost.
• Performance targets (optional)
• Minimum, maximum, and target fee.
• A formula for adjusting fee based on actual costs and/or performance.</td><td>• Target cost.
• Standards for evaluating performance.
• A base and maximum fee.
• Procedures for adjusting the fee based on performance against standards.</td><td>• Target cost.
• If CS, an agreement on the Government's share of the cost.
• No fee.</td><td>• A ceiling price.
• A per hour labor rate that also covers overhead and profit.
• Provisions for reimbursing direct material costs.</td></tr>
<tr><td>Provide an acceptable deliverable at the time and place specified in the contract at or below the ceiling price.</td><td colspan="4">Make a good faith effort to meet the Government's needs within the estimated cost in the Schedule.</td><td>Make a good faith effort to meet the Government's needs within the "ceiling price."</td></tr>
<tr><td>Realizes a higher profit by completing the work below the ceiling price and/or by meeting objective performance targets.</td><td>Realizes a higher rate of return (i.e., fee divided by total cost) as total cost decreases.</td><td>Realizes a higher fee by completing the work at a lower cost and/or by meeting other objective performance targets.</td><td>Realizes a higher fee by meeting judgmental performance standards.</td><td>If CS, shares in the cost of providing a deliverable of mutual benefit.</td><td></td></tr>
<tr><td>Production of a major system based on a prototype.</td><td>Research study.</td><td>Research and development of the prototype for a major system.</td><td>Large scale research study.</td><td>Joint research with educational institutions.</td><td>Emergency repairs to heating plants and aircraft engines.</td></tr>
<tr><td>Must be negotiated. Contractor needs an adequate accounting system. Targets must be supported by cost data.</td><td colspan="4">Must be negotiated. The contractor must have an adequate accounting system. The Government must closely monitor the contractor's work to ensure use of efficient methods and cost controls. There are statutory and regulatory limits on the fees that may be negotiated for cost plus fixed fee contracts. Must include the applicable "Limitation of Cost" clause from FAR 52.232-20 through 23.</td><td>Must be justified. and negotiated. The Government must closely monitor the contractor's work to ensure efficient performance.</td></tr>
<tr><td>Firm or Successive Targets</td><td>Completion or Term.</td><td></td><td></td><td></td><td>Labor Hour</td></tr>
</table>

Unit 18 Recurring Requirements

- Define "recurring" requirements.
- Define and describe circumstances for using options, standing price quotations, blanket purchase agreements, basic agreements, basic ordering agreements, indefinite delivery contracts (including task order contracts), and multi-year contracts.

Recurring Requirements

Beyond compensation, another issue is when, where, and in what quantity the Government may order deliverables under a contract. Most Federal contracts specify fixed quantities or tasks to be performed, delivery points or places of performance, and delivery dates or performance periods. But what can you do when you anticipate acquiring the same supplies and services, over and over again, for an extended period of time — perhaps even beyond the boundaries of the current fiscal year — but :

- You do not have the funds immediately in hand to acquire all needed supplies or services, OR
- You are not likely to be certain upon award of what exactly will be needed (either in terms of the exact quantities of supplies or exact taskings), when the supplies or services will be needed, and/or exactly where the supplies or services will be needed?

The FAR provides a variety of instruments for solving these problems. Among your alternatives:

- Options.
- Standing price quotations.
- Blanket Purchase Agreements (BPAs)
- Basic Agreements (BAs).
- Basic Ordering Agreements (BOAs)
- Indefinite delivery contracts (e.g., delivery order and task order contracts)
- Multi-year contracting.
- Some combination of the above.
- None of the above.

Options

FAR 17.2

An "Option" clause gives the Government a unilateral right (during a specified period, such as one year) to purchase additional supplies or services called for by the contract or to extend the term of the contract.

The Government is free to exercise the option or forgo the option. You can even establish successive options in a single contract.

Establish an option clause if:

- The option would be for quantities or performance over and above the known firm requirements for which funds are available,
- An option would better meet the need than initiating a new competitive acquisition at a later date,
- An option would better meet the need than an indefinite delivery contract (although such contracts can include options),
- Market conditions are likely to be stable enough to preclude putting the contractor at undue risk, and
- Market prices are not likely to change substantially during the option period.

Standing Price Quotations

FAR 13.103

You may negotiate a “standing price quotation” for an item or service that will apply every time you order that item or service from that vendor, rather than obtaining an individual quotation for each purchase. Standing price quotations may be used if--

Consider soliciting and negotiating standing price quotations:

- In combination with blanket purchase agreements (to pre-price calls) or as a stand alone method for streamlining the process of contracting for recurring requirements.
- When planning to buy repeated quantities of the same products under SAT (and the expected cumulative amount will not exceed SAT).
- Prices are expected to be stable over the buying period.

Having established standing price quotations, use them when:

- The pricing information is current; and
- The Government obtains the benefit of maximum discounts before award.

Blanket Purchase Agreements

FAR 13.303

A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply. BPAs may be established with:

- More than one supplier for supplies or services of the same type to provide maximum practicable competition, OR
- A single firm from which numerous individual purchases at or below the simplified acquisition threshold will likely be made in a given period, OR
- Federal Supply Schedule contractors, if not inconsistent with the terms of the applicable schedule contract.

Use BPAs when:

- The contracting activity will purchase a wide variety of items in a broad class of goods (e.g., hardware) but exact items, quantities, and delivery requirements are not known in advance and may vary considerably.
- There is no required source or existing requirements contract for the same supply or service that the contracting activity is required to use
- Individual requirements will range from $2,500 to the Simplified Acquisition Threshold or $5 million for commercial items (but this limit does not apply to Federal Supply Schedule contractors, if not inconsistent with the terms of the applicable schedule contract).
- BPA calls would be more cost-effective than writing numerous purchase orders.

Basic Agreements

FAR 16.702

Basic Agreements (BAs) are written instruments of understanding that convey contract clauses applicable to future contracts between the parties. BAs are useful when a number of contracts may be awarded to a contractor and agreement can be reached on a number of critical terms and conditions for incorporation in most or all of the impending contracts. Do not cite appropriations, obligate funds, promise (explicitly or implicitly) to place orders or contracts with the concern, or otherwise restrict competition. Review every basic agreement at least annually to ensure continued conformance with Governmentwide and agency policies.

Basic Ordering Agreements

FAR 16.703

Like BAs, Basic Ordering Agreements (BOA) include negotiated clauses. But BOAs also describe the types of supplies or services to be acquired and the methods for pricing, issuing, and delivering future contracts (called “orders” for the purpose of a BOA). By establishing the “ground rules," the placing of orders for supplies and services may be expedited as anticipated requirements for the supplies and services materialize.

Only consider a Basic Ordering Agreement when:

- A BPA cannot be used,
- An exception to full and open competition will probably apply to the orders (e.g., because (i) the contractor is the only available, responsible supplier for weapon system spares and repairs or (ii) because orders are likely to be placed under urgent conditions),
- The resources required for each order cannot be forecast with confidence prior to the placement of the order, and
- The quantities to be procured per each designated location and/or delivery schedules are likely to be unstable or unknown over the life of the agreement and are significant to overall price. Risks are deferred until each individual order is placed.

Indefinite-Delivery Contracts

FAR 16.5

An indefinite-delivery contract is a contract for supplies or services that does NOT procure or specify a firm quantity (other than a minimum or maximum quantity) and that provides for the issuance of orders during the period of the contract. Indefinite-delivery contracts for supplies are known as "delivery order" contracts. Indefinite delivery contracts for services are known as "task order" contracts.

There are three types of indefinite-delivery contracts:

Definite-quantity contracts (when the required quantity is known and funded at the time of award but not the specific shipping destinations).

Indefinite-quantity contracts (when an exact amount is acquired at the time of award but there is uncertainty about how much and where additional quantities may be needed).

Requirements contracts (when the Government expects to place orders for a significant number of items or tasks but does NOT commit to ordering any quantity at the time of award — in which case the Government does commit to ordering the covered supplies or services ONLY from that contractor during the life of the contract).

Multi-Year Contracts

FAR 17.1

A "multi-year contract" is a contract for the purchase of supplies or services for more than 1, but not more than 5, program years. A multi-year contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds, and (if it does so provide) may provide for a cancellation payment to be made to the contractor if appropriations are not made. The key distinguishing difference between multi-year contracts and multiple year contracts is that multi-year contracts buy more than 1 year's requirement (of a product or service) without establishing and having to exercise an option for each program year after the first.

Use multiyear contracting when:

- No year or multiyear funds are available (or multiyear contracting is specifically authorized by statute),
- Funds are likely to be available throughout the contract period at levels above the cancellation ceiling,
- You expect no substantial change in the minimum need (i.e., in the production rate, acquisition rate, and total requirement) during the contemplated contract period,
- You plan to award a firm fixed price, fixed price with economic price adjustment, or fixed-priced incentive contract, and
- A multi-year contract would probably cost less than a string of one-year contracts, for such reasons as: fewer contracts to award and administer; greater standardization; no annual startup costs, preproduction testing costs, make-ready expenses, phaseout costs, and the like; stabilization of the contractor's workforce; incurrence only <u>once</u> of the costs of establishing and verifying a quality assurance system; submission of highly competitive offers from firms that would have passed on the chance to compete for a one year contract (given start-up costs and other barriers to entering the market); and/or greater incentives for contractor investments in facilities, equipment, and manufacturing technology.

Unit 19 Unpriced Contracts

- Identify circumstances and conditions for use of letter contracts.
- Identify circumstances and conditions for use of unpriced orders.

Letter Contracts

FAR 16.603

A letter contract is a written preliminary contractual instrument that authorizes the contractor to begin work immediately.

A letter contract may be used when:

- The Government's needs are such that the contractor must be given a binding commitment so that work can begin immediately.
- Negotiation of a definitive contract is not possible in time to meet the requirement.

Clearly, making a contractual commitment before all the terms and conditions are known can pose some risks. Nevertheless, there are occasions, such as during national emergencies, when time is of the essence and a letter contract is therefore necessary.

A letter contract:

- May not be used unless the agency head or designee determines that no other contract is suitable.
- Shall not be entered into without competition if competition is otherwise required.
- Shall not be amended to satisfy a new requirement unless that requirement is inseparable from the existing letter contract.

When it is necessary to use a letter contract, it should:

- Be as complete and definite as possible under the circumstances.
- Include a maximum liability clause.
- Include a time-table for definitization (usually within 180 days or before completion of 40 percent of the work, whichever occurs first).
- If awarded based on price competition, include an overall ceiling price to avoid being a "blank check."

Unpriced Orders

FAR 13.302-2

An unpriced purchase order is an order for supplies or services, the price of which is not established at the time of issuance of the order.

Use unpriced purchase orders ONLY when you cannot practically obtain pricing in advance of issuance of the purchase order and the purchase is for one of the following:

- Repairs to equipment requiring disassembly to determine the nature and extent of repairs.
- Material available from only one source and for which cost cannot readily be established.
- Supplies or services for which prices are known to be competitive, but exact prices are not known (*e.g.*, miscellaneous repair parts, maintenance agreements).

You may issue unpriced purchase orders either on paper or electronically. Include a realistic monetary limitation, either for each line item or for the total order, in the order (subject to adjustment when the firm price is established).

You must follow up on each order to ensure timely pricing. The contracting officer or the contracting officer's designated representative must review the invoice price and, only if reasonable, process the invoice for payment.

Unit 20 Contract Financing

FAR Part 32

- Define “financing”
- Identify situations when solicitations may provide for contract financing.
- Describe financing terms available for offerors of commercial items.
- Describe financing terms available for offerors of non-commercial items.

Financing Defined

Financing refers to payments made to a contractor before supplies have been delivered or services rendered. The CO determines whether financing is necessary and the type of financing to establish in the contract. This information can be specified in the solicitation document.

When Appropriate

The contractor's private financing, such as company funds or borrowed capital, may be inadequate or be so costly as to be unaffordable. Therefore, contractors may need financing to cover upfront expenses for:

- √ Materials and equipment.
- √ Labor.
- √ Subcontracts.
- √ Overhead expenses.
- √ Travel and per diem.

The longer the term of the contract, the more the contractor will be concerned about its ability to maintain the necessary cash flow during contract performance. To help with this cash flow problem, and as a means of attracting contractors, the Government assists contractors with their financing.

Financing Terms in Contracts for Commercial Items

Two basic types of financing are available when contracting for commercial items. They are:

> **Commercial advance payments** - Payments made before any performance of work under the contract. Commercial advance payments may **not** total more than 15 percent of the contract price.
>
> **Commercial interim payments -** Payments made after the contractor has begun work under the contract but prior to acceptance.

Commercial advance and interim payments are not subject to the interest penalty provisions of the Prompt Payment Act. Instead, agencies are required to establish payment times for such financing payments.

It is the responsibility of the contractor to provide all resources needed for performance of the contract. Thus, for purchases of commercial items, financing of the contract is normally the contractor's responsibility.

However, in some markets the provision of financing by the buyer is a commercial practice. In these circumstances, the contracting officer may include appropriate financing terms in contracts for commercial purchases when doing so will be in the best interest of the Government. Therefore, when performing market research, be alert for signs that buyers customarily finance sellers. If buyer financing appears to be a customary market practice, ascertain the:

- Extent to which other buyers provide contract financing for purchases in that market.

- Overall level of financing normally provided.
- Amount or percentages of any payments equivalent to commercial advance payments (per FAR §32.202-2).
- Basis for any payments equivalent to commercial interim payments (as defined at FAR §32.202-2), as well as the frequency, and amounts or percentages.
- Methods of liquidation of contract financing payments and any special or unusual payment terms applicable to delivery payments. [FAR §32.202-3]

When performing market research, likewise be alert for signs that sellers customarily finance buyers. Since the Government cannot accept financing from sellers, the Government price should be correspondingly less than commercial prices that are based on seller financing. The Government pays on delivery.

Financing Terms in Contracts for Non-Commercial Items

Unless otherwise authorized by agency regulation, contract financing may be provided in contracts for non-commercial items ONLY:

- With small business contractors when the contract price will be greater than the simplified acquisition threshold.
- With other than small business contractors when the contract price will be $1 million or more, or for a group of contracts, whose prices are greater that the simplified acquisition threshold, that total $1 million or more.

For non-commercial contracts, the following methods of financing can be provided (listed below in order of preference).

Customary Progress Payments: Payments made under a fixed price contract on the basis of costs incurred or on physical progress. When based on costs, the customary rate of payment is usually 80% of costs incurred or, for small businesses, 85%. For construction, the rate is usually 90% for work completed. Progress payments based on a percentage or stage of completion are authorized by the statutes cited in FAR 32.101. Customary progress payments being by far the most commonly used method of financing. Note that progress payments differ from "partial payments," in that the latter are payments for items received and accepted by the Government when the contractor has shipped part of the order. Progress payments, on the other hand, are made to the contractor for work still in progress.

Loan Guarantees: Generally, a guarantee to a lending institution that the Government will stand behind loans to the contractor. These guarantees are made by Federal Reserve banks on behalf of designated guaranteeing agencies. Seven agencies (DoD, Energy, Commerce, Interior, Agriculture, GSA, NASA) are authorized to guarantee loans for contract performance.

Unusual Progress Payments: Generally, payments at a rate higher than 80% of costs incurred (or higher than 85% for small business concerns).

Performance-Based Payments: These are not payments for accepted items (i.e., not to be confused with partial payments) but rather are based on:

- Performance measured by objective, quantifiable methods,
- Accomplishment of defined events, or
- Other quantifiable measures of results.

This type of payment can only be used if certain conditions exist. See FAR 32.10 for limitations.

Advance Payments: Payments made to the contractor in advance of any incurrence of cost. Advance payments are used rarely (i.e., when start-up costs are exceptionally high).

If progress payments are to be made available, the CO incorporates the provision at FAR 52.232-13. In sealed bidding, the progress payments may be made available only for small businesses, by incorporating the provision at FAR 52.232-14, or may be ruled out altogether by the provision at FAR 52.232-15. If progress payments are to be available, the CO also incorporates the progress payment clause at FAR 52.232-16. For advance payments, the CO inserts the clause at FAR 52.232-12.

When the solicitation makes progress payments available, the offeror may request the progress payments following award in sealed bidding. In negotiated procurements, the contractor can request progress payments (or any other form of financing) during discussions whether or not the CO incorporated the provision at FAR 52.232-13. In that case, the CO evaluates the firm's need for financing and reaches a decision on the request. If financing is extended, the CO takes measures to protect the Government's interests and receive consideration for the cost of the capital being furnished.

Unit 21 Need for Bonds

FAR Part 28

- Define the term bond.
- Describe the different types of bonds.
- Identify situations in which a bond is needed.

Definition

A **bond** is a written instrument executed by a bidder or contractor and a surety to assure fulfillment of an obligation to the Government. The most commonly used types of bonds are shown in Exhibit 6-21. The FAR also provides for advance payment and patent infringement bonds.

Incorporating Bond Requirements

Incorporate the clauses prescribed in FAR Part 28 and the applicable forms (e.g., SF 25). Also specify:

√ The requirement for the bond(s);

√ The penal sum of each bond; and

√ The deadline for submitting acceptable bonds.

TYPES OF BONDS	Bid Guarantee	Performance Bond	Payment Bond
Purpose	Ensures bidder will: • Not withdraw bid. • Execute contract. • Furnish additional bonds required.	Secures performance and fulfillment of the contractor's obligation under the contract.	Assures payment as required by law to all persons supplying labor or materials to the prime contractor.
Value	20% of the bid price but not more than $3 million.	100% of the contract.	Varies.
When Required	When performance bonds, or payment and performance bonds, are required.	For construction contracts in U.S. over $25,000. In other than construction contracts, when deemed necessary by the CO to protect the Government from undue market risks.	For construction contracts in U.S. over $25,000. In other than construction contracts, when a performance bond is required and the CO believes a payment bond also is necessary.
Examples of Risks The Bond Is Meant to Mitigate	That the contractor might declare bankruptcy upon realizing that the bid is far too low to be profitable.	That the contractor might not complete work.	That the contractor might fail to pay subcontractors.

Exhibit 6-21. Types of Bonds

Unit 22 Method of Payment

- Identify alternative payment methods.
- Describe "fast payment" procedures.

Once upon a time, contractors were paid by means of a written check. Thanks in part to the introduction of electronic commerce, there are now a number of alternatives to the old-fashioned paper check. Among the alternatives:

- Government Commercial Purchase Card.
- Electronic funds transfer through Fedline.
- Electronic funds transfer through the Automated Clearing House.
- Third Party Drafts (but only if authorized by Treasury for use above the micropurchase threshold).

Select the available method of payment and related clauses that will best minimize the Government's overhead for making contract payments while preserving opportunities for small business concerns to compete for Federal contracts.

Fast Payment Procedure

FAR 13.4

This procedure allows payment under limited conditions to a contractor prior to the Government's verification that supplies have been received and accepted. When the Purchase Order authorizes fast payments, the Government pays for supplies upon receiving an invoice from the contractor certifying that the contractor:

- Has delivered the supplies to a post office, common carrier, or point of first receipt by the Government; and
- Shall replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase agreements.

Do not use Fast Payment for orders above $25,000 or the agency specified threshold. Use Fast Payment only if all of the following are true:

- Given both the geographical separation and inadequate communications between Government receiving and disbursing activities, timely payment cannot practically be based on evidence of Government acceptance. (Do not use the fast payment procedure if material being purchased contract administration will be performed by the contracting office at the receiving activity.)
- Title to the supplies will vest in the Government-- (1) Upon delivery to a post office or common carrier for mailing or shipment to

destination; or (2) Upon receipt by the Government if the shipment is by means other than Postal Service or common carrier.

- The supplier agrees to the terms in 52.213-1 for replacing, repairing, or correcting supplies not received at destination, damaged in transit, or not conforming to purchase requirements. Only establish such agreements with suppliers which have a good track record of reliability and willingness to promptly correct performance problems.
- A system is in place to (1) document evidence of contractor performance under fast payment acquisitions; (2) identify suppliers with a current history of abusing the procedure; and (3) quickly notify the contracting officer of problems with contractor compliance.

Unit 23 Procurement Planning.

- Define procurement planning and describe the purpose of such planning.
- Describe a procurement plan, listing the basic elements.

Definition and Purpose

In Unit 2, we discussed acquisition planning by requiring activities and stated that such plans serve, among other purposes, as the basis for initiating Purchase Requests (PRs). This section discusses planning by COs for carrying out their responsibilities for awarding contracts against PRs.

For the purposes of this text, procurement planning by the CO is covered as the last act of the acquisition planning phase. However, COs begin planning the steps in awarding a contract from the moment that they are apprised of a requirement. Procurement planning is discussed at this point because the plan must be complete before the CO moves on to contract formation.

COs generally put their plan for awarding a contract in writing only for a complex requirement that will take an extended period of time to award. Whether or not the plan is committed to writing, the CO for any acquisition must:

- Record and document the key procurement planning decisions (e.g., on the extent of competition and price-related factors).
- Identify tasks necessary to award the contract and key decision points.

- Identify the responsible person or office for each such task (e.g., for conducting a technical evaluation).
- Establish and track milestones (e.g., the due date for completing a technical evaluation).
- Identify officials who are responsible for concurrences, clearances, or approvals.

The CO's plan therefore usually includes or addresses the items described in Exhibit 6-22.

TYPICAL ELEMENTS OF A PROCUREMENT PLAN

The Purchase Request (PR).

Documentation of discussions and agreements with the requiring activity on elements of the PR.

Decisions on the extent of competition for award, including any necessary justifications for restricting competition.

Decisions on selection factors to be applied in competitive acquisitions, and the rationale for each such factor.

Decision on the method of procurement.

Preliminary decisions on provisions and clauses for the for the acquisition (e.g., on type of contract).

Milestones for awarding the contract.

Related tasks (e.g., technical evaluation of offers).

Persons or offices responsible for performing the tasks and meeting designated milestones.

Officials responsible for concurrences, clearances, or approvals.

Preliminary plans for administering the contract.

Exhibit 6-22. Typical Elements of a Procurement Plan

In addition to the stated purpose of a procurement plan, there is another benefit to the CO. When all of the current procurement plans in the contracting office are taken as a whole, the CO can use them to:

- Forecast workload and staffing levels.
- Make major work assignments within the office.